DEPARTMENT OF TRANSPORTATION

Essential Elements of the FHWA NEPA Process

The National Environmental Policy Act of 1969 (NEPA) requires Federal agencies to prepare an Environmental Impact Statement (EIS) for all major Federal actions significantly affecting the human environment. The Federal Highway Administration's (FHWA) preparation of NEPA documents assists in making decisions that balance transportation needs with impacts to sensitive resources such as wetlands, air quality, endangered species, historic sites, etc.

The Federal requirement to prepare an EIS also includes complying with state environmental laws. Minnesota has the Minnesota Environmental Policy Act (MEPA) that applies to all projects involving at least one governmental approval or form of financial assistance, as well as projects conducted by a governmental unit. Impact thresholds are used to determine when the MEPA requirements for an environmental assessment worksheet (EAW) or an EIS are triggered. Additionally, agencies have the flexibility to complete a state EAW or EIS at their discretion, even if impact thresholds are not triggered.

When a project involves both state impact thresholds and the need to prepare a federal EIS, coordination between the local road authority (in the case of Rethinking I-94 it is the Minnesota Department of Transportation [MnDOT]) and FHWA allows environmental review to be conducted as a single process that fulfills both state and federal requirements. The process outlined below includes steps that must be completed to comply with both MEPA and NEPA.

The Lead Federal Agency

The I-94 federal EIS has FHWA in the role of the lead federal agency because this is a highway project. With transit in the corridor being a consideration, the Federal Transit Administration (FTA) will serve as a cooperating agency. The Council on Environmental Quality (CEQ) regulations (40 C.F.R. 1500-1508) requires agencies to include reasonable alternatives not within the jurisdiction of the lead agency in their development and evaluation of alternatives. This means that FHWA's lead federal agency role will not preclude evaluating alternatives involving transit. Federal agencies that have thus far committed to serve as cooperating agencies (see page 3) include: US Environmental Protection Agency (EPA), US Federal Railroad Administration (FRA), and FTA.

EIS Tiering

Based on the complexity of the corridor setting, the range of alternatives that are likely to be investigated, and recognizing the importance of fully engaging the public, agencies, and other stakeholder groups, FHWA and MnDOT made the decision to conduct more than one round of environmental reviews for the I-94 corridor. The CEQ and FHWA regulations encourage the tiering for major transportation actions. The first tier EIS would focus on broad issues such as general location, mode choice, and project impacts (including land use implications) of the alternatives at a high level because of the limited amount of design detail in a Tier 1 document. The second tier would build on the Tier 1 analysis with more developed site-specific details on project impacts, costs, and mitigation measures. This approach allows for the focus on the actual issues ripe for discussion. Determinations about basic alignments and broad project issues need to be addressed first. Also, the I-94 improvements are scheduled to be implemented over a long period of time and funding is not available

to construct all of the improvements at once. The Tier 1 EIS provides a general overview of the project and its location and sets forth a strategy that divides the corridor into segments of independent utility that may proceed to develop independently as Tier 2 environmental reviews. The Tier 2 environmental reviews would then address specific project impacts at the independent locations within the project corridor identified in the Tier 1 review. A Tier 2 review could have the preparation of an EIS or EA document, or result in a Categorical Exclusion determination (CE). Based on information gained thus far about the I-94 corridor, FHWA and MnDOT anticipate that Tier 2 reviews would likely result in EA documents or CE determinations.

What are the major steps in the NEPA and MEPA EIS process?

Rethinking I-94 Phase 2 will result in a Tier 1 EIS. FHWA and MnDOT have identified a Tier 1 EIS as the appropriate course of NEPA review based upon the scope and complexity of alternatives that might address an assortment of needs and the sensitive social, economic, and environmental (SEE) resources that might be impacted along the corridor. From the perspective of MEPA, none of the mandatory EIS impact thresholds are anticipated to be triggered. But because of the SEE resources along the corridor, MnDOT has agreed to complete a discretionary EIS under the MEPA process. When a determination is made that an EIS will be prepared for a project, the following steps would be taken to develop a final EIS that meets the criteria under a combined NEPA and MEPA process. **Figure 1** on the following page shows the steps for the combined NEPA/MEPA process for I-94. It should be noted that public and agency engagement is a part of every step in the state and federal process. The following subsections provide an overview of the various steps in the process.

Draft Coordination Plan and Public Involvement Plan

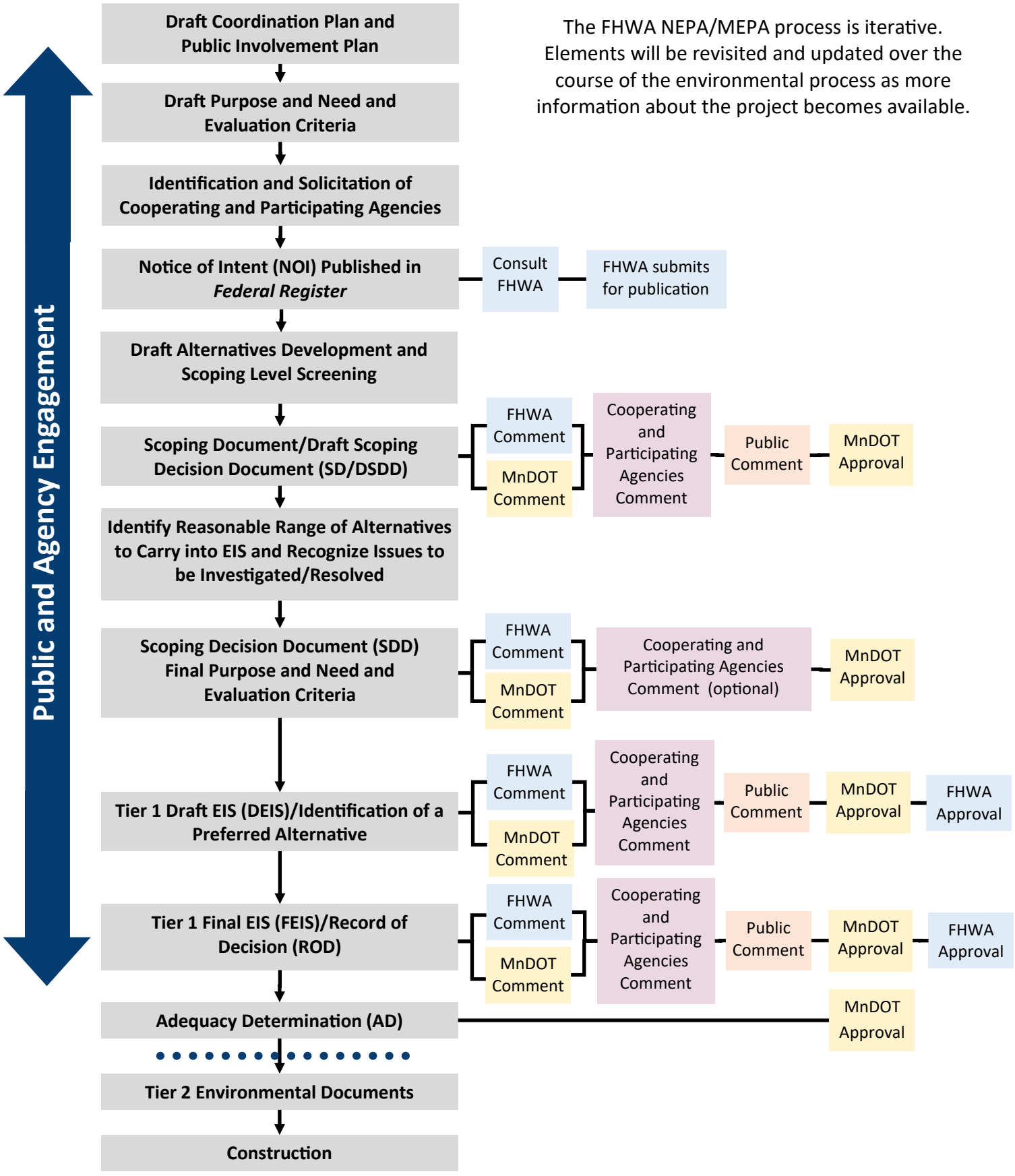
Draft public involvement and coordination plans have been developed by MnDOT to identify key milestones and opportunities to engage agencies, stakeholder groups and the general public in the development and review of key elements in the environmental documents, such as purpose and need, evaluation criteria, development of a reasonable range of alternatives and identifying a preferred alternative. The public involvement plan and coordination plan for Rethinking I-94 Phase 2 will be updated as the process progresses. Copies of both plans are available upon request.

Draft Purpose and Need and Evaluation Criteria

The purpose and need statement describes why a transportation project is necessary despite significant expense and potential environmental impacts. The “purpose” is a broad statement of the primary intended transportation results and other related objectives to be achieved by a proposed transportation improvement, while the “need” identifies the specific transportation problems or deficiencies. The purpose and need document for Rethinking I-94 is currently under development by MnDOT and FHWA. The draft document will be shared with cooperating and participating agencies, stakeholder groups and the general public for comment. (see subsection regarding cooperating and participating agencies)

Rethinking I-94 Phase 2 NEPA/MEPA Process

The FHWA NEPA/MEPA process is iterative. Elements will be revisited and updated over the course of the environmental process as more information about the project becomes available.



The NEPA process requires the evaluation of multiple alternatives that could meet the project's purpose and need while identifying and considering potential SEE impacts. The joint lead agencies (FHWA and MnDOT) are responsible for determining the methodology and level of detail for the evaluation of alternatives. Evaluation criteria are the measures used to compare the set of alternatives identified for consideration. The criteria are applied to the potential "build" alternatives as well as the "no-build" scenario, that functions as a baseline for comparison.

The purpose of evaluating alternatives is to assess which of them meet the purpose and need and provide benefits that can be justified despite significant cost and identified environmental impacts. In cases where no alternative completely meets the purpose and need, clear evaluation criteria can help establish critical, desirable, and supporting elements of the purpose and need to determine whether an action should be pursued despite financial and environmental costs.

For Rethinking I-94, draft evaluation criterial have been identified for the Scoping stage and the Tier 1 EIS stage (see subsection descriptions of Scoping and Tier 1 DEIS). The criteria and measures get more detailed as alternatives are refined and more data is available. At the Scoping stage, the evaluation criteria are intended to screen out alternatives that have fatal flaws associated with failing to address the purpose and need or have unmitigable impacts to SEE resources. The intent at the end of Scoping is to have a range of reasonable alternatives that are further evaluated at a more detailed level during the Tier 1. Draft evaluation criteria for the Scoping and Tier 1 phases are currently being developed by MnDOT and FHWA for the Rethinking I-94 project. Once refined, they will be shared with cooperating and participating agencies, stakeholder groups and the general public for comment.

Identification and Solicitation of Cooperating and Participating Agencies

MnDOT and FHWA have identified cooperating and participating agencies for the Rethinking I-94 project. Cooperating agencies are specifically requested by the joint lead agencies to assist with the environmental process. Federal agencies with jurisdiction by law must be requested to be cooperating agencies. This includes permitting agencies such as the US Army Corps of Engineers. Cooperating agencies can also include other federal agencies with special expertise, state or local agencies acting in the stead of federal agencies or in support, or tribal governments where reservation land is involved. Participating agencies can include any federal, state, regional, local, or tribal government unit with an interest in the project.

At this time, the following have agreed to serve as either a cooperating or participating agency:

Cooperating agencies: EPA, FRA, and FTA.

Participating agencies: Cities of Minneapolis and Saint Paul, Hennepin and Ramsey Counties, Metropolitan Council and Metro Transit, Minnesota Pollution Control Agency, State Historic Preservation Office, Minnesota Department of Health, Capitol Region Watershed District, Mississippi Watershed Management Organization, Capitol Area Architectural and Planning Board, and Minneapolis Park and Recreation Board.

Notice of Intent (NOI) Published in *Federal Register*

The NOI is a public notice that informs federal, state, local agencies, and the public of the lead agency's intent to prepare an EIS for the project. A NOI is required to be published in the *Federal Register* under

NEPA but is not a MEPA requirement. A draft NOI has been completed for Rethinking I-94 and is anticipated to be published in December 2019. FHWA is responsible for having the NOI published.

Draft Alternatives Development and Scoping Level Screening

Once the purpose and need is prepared and evaluation criteria have been developed, potential alternatives are identified. Draft alternatives will be developed by MnDOT with input from its partners. Alternatives will be developed with the purpose and need and evaluation criteria in mind. The draft alternatives will be shared with cooperating and participating agencies, stakeholder groups and the general public for comment. The alternatives will be evaluated and screened using the evaluation criteria identified for the Scoping stage. Alternatives that have fatal flaws by not addressing the purpose and need or having unmitigable SEE impacts will be eliminated. The "no build" alternative will continue to the Tier 1 EIS stage along with the reasonable range of alternatives that address the purpose and need and avoid/minimize impacts to known SEE resources.

Scoping Document/Draft Scoping Decision Document (SD/DSDD)

Scoping is the formal process of identifying the major issues and/or impacts associated with the proposed action and determining the scope of the significant issues to be analyzed in depth in the EIS and eliminate from detailed study the issues which are not significant. It identifies the level of effort that will be undertaken by the joint lead agencies to address impacts to resources in the Tier 1 Draft EIS (DEIS). For instance, in the case of I-94, there are very few high-quality wetlands within the project area; therefore, the Tier 1 DEIS will not undertake a robust investigation of wetlands. There are, however, several older structures within the project area. Therefore, the joint lead agencies anticipate the historic resources evaluation will be more robust.

The Scoping process outlines how alternatives will be evaluated and identifies the reasonable range of alternatives that will be studied in greater detail in the Tier 1 DEIS (as identified in the previous subsection). As noted previously, evaluation criteria are established to identify how well an alternative addresses the project's transportation purpose and need. Alternatives that fail to address the purpose and need are rejected as unreasonable. Alternatives that address the purpose and need are further evaluated (at a high level in scoping) to determine their impacts to SEE resources within the project area, including historic properties, contaminated properties, environmental justice concerns, and more. Alternatives that have "significant" impacts may be rejected at this point. The SD/DSDD will make a recommendation on the reasonable range of mainline and access alternatives to carry forward into the Tier 1 DEIS.

The SD/DSDD is reviewed by MnDOT and FHWA. From there the document is distributed to cooperating and participating agencies for comment. The document is updated if necessary. The MnDOT Chief Environmental Officer approves it before a notice of availability is published in the EQB Monitor and the document is distributed to the public for comments. A public hearing is held during the official public comment period.

Identify the Reasonable Range of Alternatives to Carry into EIS and Recognize Issues to be Investigated/Resolved

At the end of the SD/DSDD, a reasonable range of mainline and access alternatives to carry forward into the Tier 1 DEIS will be identified. The joint lead agencies anticipate that five to seven alternatives (in addition to the "no build" alternative) will be carried forward. Additionally, key issues associated with SEE resources will be identified.

Scoping Decision Document (SDD) and Final Purpose and Need and Evaluation Criteria

The end of the Scoping process results in a Scoping Decision Document (SDD). This document incorporates the public and agency comments and the responses to the comments. It also, because agency and public opportunities for involvement in the purpose and need and range of alternatives have occurred, finalizes the project purpose and need, range of alternatives that will be evaluated in the Tier 1 DEIS and the methodologies and level of detail in the evaluation of alternatives. MnDOT and FHWA will review the document, and at MnDOT's discretion the final SDD document may be shared with cooperating and participating agencies. MnDOT finalizes the SDD document with the signature of its Chief Environmental Officer and publishes a notice in the EQB Monitor. Additionally, an EIS notice is also published in the EQB Monitor.

At this stage the purpose and need and evaluation criteria are finalized for use in the Tier 1 DEIS.

If the SDD is amended after it has been signed, a notice of an Amended Scoping Decision Document must be published in the EQB Monitor.

Tier 1 Draft EIS (DEIS)/Includes Identifying a Preferred Alternative

Tier 1 DEIS activities began during the MEPA Scoping effort to eliminate duplication of efforts between the MEPA and NEPA processes. Solicitation of agencies to participate in the Tier 1 has been initiated. FHWA was responsible for soliciting the cooperation of federal agencies (cooperating agencies). MnDOT was responsible for soliciting participation from state and local agencies (participating agencies). As noted previously, cooperating and participating agencies are specifically requested by the joint lead agencies during early coordination to assist with the environmental process.

The Rethinking I-94 Tier 1 DEIS will build on the Scoping process by conducting additional studies to better understand SEE resources within the corridor and to further understand the benefits and disadvantages associated with the alternatives that carried into the Tier 1. The Tier 1 DEIS will utilize more detailed evaluation criteria to clarify/highlight differences between the alternatives and their ability to address purpose and need items, avoid and/or minimize impacts to SEE resources, and achieve other goals associated with the program of projects. The Tier 1 EIS alternatives will also be evaluated based on cost and additional considerations (e.g., maintenance, stormwater, and consistency with regional plans).

The Tier 1 DEIS provides an opportunity to refine alternatives based on the results of the evaluation process to minimize potential impacts, better address the purpose and need, or advance livability goals. While mainline and access/interchange alternatives will be evaluated separately during the Tier 1

process, there will be logical interaction between the two so that they can be integrated to define specific projects.

The joint lead agencies expect to identify a preferred alternative for the mainline and three options at locations with access/interchange modifications. This alternative will constitute a draft program of Tier 2 projects that will be subject to Tier 2 level review and implementation over a 20-year timeframe.

The Tier 1 DEIS, after review and revision based on comments from MnDOT and FHWA, will be shared with the cooperating and participating agencies for their informal review and comment. Following comment from the cooperating and participating agencies, the DEIS will be updated as needed. Before the DEIS is approved by the MnDOT Chief Environmental Officer, the Metro District Engineer must sign to recommend the approval. The Office of Environmental Stewardship (OES) delivers the Tier 1 DEIS to the FHWA Division Administrator for FHWA approval within 21 days. As the Responsible Governmental Unit (RGU), MnDOT distributes the Tier 1 DEIS to agencies and publishes its availability in the *EQB Monitor* and the local newspaper. FHWA will publish its availability in the *Federal* Register. Agencies and parties should receive a copy of the Tier 1 DEIS on or prior to the date the Tier 1 DEIS availability notice is published in the *EQB Monitor* and *Federal Register*.

A public hearing notice for the DEIS is published in the *EQB Monitor* and the *Federal Register*. Under federal law, the DEIS has to be made available at least 15 days in advanced of the public hearing and the comment period must be open for at least 45 days (but would not exceed 60 days). Minnesota implements the same comment period as the Federal process. However, under the State EIS process, the comment period begins the day DEIS is published in the *EQB Monitor*. Because the *EQB Monitor* and the *Federal Register* publish items on different days—*Federal Register* publishes on a Friday whereas the *EQB Monitor* publishes on a Monday—it is important to ensure that the DEIS is published just before or just after the *Federal Register* publication date. A Certificate of Compliance is prepared and must be signed by the MnDOT District Engineer to indicate that the DEIS fully addresses the necessary social and economic impacts of the project.

Tier 1 Final EIS (FEIS)/Record of Decision (ROD)

The joint lead agencies expect to combine the Final EIS (FEIS) and Record of Decision (ROD) into a single document. If the FEIS makes substantial changes in the proposed action that are relevant to environmental or safety concerns or if there are significant new circumstances or information relevant to environmental concerns that bear on the proposed action or the impacts of the proposed action, the FEIS and ROD would not be combined.

The Tier 1 FEIS incorporates responses to any comments submitted by the public, cooperating, and participating agencies during the DEIS comment period. Based on those responses and any other necessary changes to the DEIS a preliminary FEIS draft is developed.

At the same time the FEIS is being drafted, the joint lead agencies would work with the Metro District and OES to prepare a Record of Decision (ROD) that summarizes any project mitigation measures, decisions, and required Section 4(f) approval documents. The ROD is a decision by the joint lead agencies that is considered acceptance of the general project location and concepts described in the environmental review documents (23 CFR 771.113(b). If the FEIS and ROD are not combined in a single document, the ROD would not be signed sooner than 30 days after the Federal Register notice of

availability of the FEIS or 90 days after the DEIS Federal Register notice of availability (23 CFR 771.127(a). Mitigation requirements from the FEIS and ROD are summarized to include environmental commitments for the project's design stages.

The preliminary Tier 1 FEIS/ROD is submitted to FHWA and OES. FHWA and OES have 45 days to review and comment. After the comment/review period ends, the Tier 1 FEIS/ROD is finalized. The legal sufficiency of the document is reviewed by FHWA over a period no longer than 30 days. The Metro District Engineer then recommends the approval of the document. Once the document is approved by the MnDOT Chief Environmental Officer it gets transmitted to the FHWA Division Administration who has 21 days to approve it.

The availability notice for the Tier 1 FEIS/ROD is published in the *EQB Monitor* and the *Federal Register* and distributed to the appropriate parties and agencies for public review and comments.

If a re-evaluation is needed or changes are made on the alternatives, a supplemental EIS, new EIS, revised ROD, etc. may be required. If the preferred alternative changes, a revised ROD will be required.

Adequacy Determination (AD)

The adequacy determination (AD) is the final environmental decision in the state environmental process. The adequacy determination must address the rules of the MN Environmental Quality Board (MEQB) outlined in state statute 4410.2800 subpart 4 for a FEIS to be determined to be adequate. The FEIS is determined adequate if it:

- Addressed the potentially significant issues and alternatives identified in scoping
- Provided responses to substantive comments received during the DEIS review regarding issues raised in scoping
- Was prepared in compliance with MEPA procedures

If all three criteria are met, an adequacy determination letter is prepared and signed by MnDOT's Chief Environmental Officer. It cannot be completed until at least 10 working days after the Notice of Availability of the FEIS/ROD appears in the MEQB. The AD is distributed to everyone who received a copy of the FEIS/ROD.

Tier 2 Environmental Documents

As noted above, Tier 2 focuses on addressing specific project impacts at identified locations within the project corridor. A program of projects will be identified as part of Tier 1 that will require more detailed analysis before implementation. The specific projects advanced into the Tier 2 phase will integrate mainline and access alternatives for each project. Environmental documents will vary for each project in the program based on the class of action. Depending on the class of action, program of projects identified for Tier 2 can result in multiple document types, including EIS, EA, or Categorical Exclusion.

Construction

Following completion of individual Tier 2 environmental documents, construction will begin. It is anticipated that construction on I-94 will occur over a 20-year period.

Sources

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FHWA Environmental Review Toolkit, NEPA and Project Development, NEPA Transportation Decisionmaking. November 15, 2006.
https://www.environment.fhwa.dot.gov/nepa/trans_decisionmaking.aspx#alternative

MnDOT Highway Project Development Process (HPDP), Class I Actions, Process, EIS Process Overview. October 2019.
http://dotapp7.dot.state.mn.us/eDIGS_guest/DMResultSet/download?docId=613708

MnDOT Highway Project Development Process (HPDP), Class I Actions, Reports/documents, Adequacy Determination. October 2019.
http://dotapp7.dot.state.mn.us/eDIGS_guest/DMResultSet/download?docId=613460

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http://onlinepubs.trb.org/onlinepubs/nchrp/docs/NCHRP25-25(38)_FR.pdf

DEPARTMENT OF TRANSPORTATION

The NEPA Process: Agency Responsibilities

How are agencies involved in the NEPA process?

NEPA requires coordination among multiple agencies and units of government. The roles and responsibilities are determined by their designation as a lead, cooperating, or participating agency.

Joint Lead Agencies

At a minimum, the Federal agency responsible for the action in question, such as the Federal Highway Administration (FHWA), will serve as a lead agency. Any state or local government receiving federal funds directly must serve as a joint lead agency. The required lead agencies may also allow other federal, state, or local government entities to serve as joint lead agencies. The lead agency is responsible for complying with NEPA. On the I-94 project FHWA and MnDOT are Joint Lead Agencies.

Role

- Supervise preparation of the environmental document/review process
- Develop/approve coordination plan and schedule
- Invite cooperating and participating agencies
- Conduct scoping
- Determine purpose and need
- Determine range of alternatives
- Determine preferred alternative
- Prepare responses to comments from participating agencies
- Approve draft EIS for circulation
- Determine whether the FEIS and ROD may be combined
- Select alternative for Record of Decision
- Approve the FEIS/ROD

Cooperating Agencies

Cooperating agencies are specifically requested by the lead agency during early coordination to assist with the environmental process. Federal agencies with jurisdiction by law must be requested to be cooperating agencies if an EA or EIS is being prepared. This includes permitting agencies such as the U.S. Army Corps of Engineers. Cooperating agencies can also include other federal agencies with special expertise, state or local agencies acting in the stead of federal agencies or in support, or tribal governments where reservation land is involved.

Role

- Perform environmental analysis and prepare portions of the environmental document at request of lead agencies
- Provide written comments on environmental document and other draft documents (purpose and need, evaluation criteria, range of alternatives, etc.)
- Ensure environmental document fulfills the agency's NEPA responsibilities
- For EIS projects, rely upon DEIS and FEIS to satisfy their NEPA requirements
- To the extent possible, incorporate their NEPA decision making responsibility into one Record of Decision

Participating Agencies

Participating agencies can include any federal, state, regional, local, or tribal government unit with an interest in the project. The lead agencies have the responsibility to identify and involve participating agencies. However, an agency can also make a request to become a participating agency. All cooperating agencies are participating agencies, but not all participating agencies are cooperating agencies. Participating agencies have less authority, responsibility, and involvement than cooperating agencies. Private entities and nongovernmental organizations are not permitted to act as participating agencies.

Role

- Provide input on purpose and need, range of alternatives, and methodologies and level of detail in the consideration of alternatives
- Provide written comments on environmental document and other draft documents (purpose and need, evaluation criteria, range of alternatives, etc.)
- When asked, provide comments within their areas of expertise for environmental documents (draft EIS and technical memoranda)
- Ensure environmental issues of concern are addressed

Sources

FHWA Environmental Review Toolkit, NEPA Implementation, Project Development and Documentation Overview. August 21, 1992. https://www.environment.fhwa.dot.gov/legislation/nepa/overview_project_dev.aspx

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Office of the Law Revision Counsel, 23 USC 139: Efficient environmental reviews for project decisionmaking. October 9, 2019. https://uscode.house.gov/view.xhtml?req=(title:23%20section:139%20edition:prelim)

DEPARTMENT OF TRANSPORTATION

The NEPA Process: Purpose and Need

What is a Purpose and Need statement?

As part of the NEPA process, project sponsors must establish the "purpose and need" for a proposed project. At the most basic level, the Purpose and Need statement describes why a transportation project is necessary despite its expense and potential environmental impacts. The "purpose" is a broad statement of the primary intended transportation results and other related objectives to be achieved by a proposed transportation improvement, while the "need" identifies the specific transportation problems or deficiencies. Projects developed under review from the Federal Highway Administration must have a transportation purpose and a transportation need.

What is included in the Purpose and Need statement?

A Purpose and Need statement should be comprehensive while remaining concise and easy to understand. The need for a project should be established using specific data rather than relying on general statements about an issue. Issues discussed in the purpose and need could include transportation demand, capacity, safety, roadway deficiencies, mandated legislation, social demands or economic development that indicate the need to improve or add to the highway capacity, system linkages, modal interrelationships, or others as applicable to the project in question.

Projects with multiple needs may categorize them as Primary and Secondary needs. Primary needs are the key transportation problem(s) that are the real reason(s) the project is being proposed. Some projects will have more than one primary need. Secondary needs are other transportation issues or opportunities for improvement that may be able to be addressed as part of the project. Not all projects have secondary needs.

The document may also discuss Additional Considerations, which are not central to the Purpose and Need, but are important factors that can influence the selection of the preferred alternative. These considerations are discussed separately from the project needs.

How is a Purpose and Need statement used?

In addition to establishing the reasons for pursuing a project and its importance in the transportation system, the Purpose and Need is also used to identify and determine the range of alternatives that will be evaluated, establish criteria to evaluate those alternatives, and ultimately select the best option. It helps define which alternatives are considered "reasonable, prudent, and practicable," and allows alternatives that do not meet the Purpose and Need to be dismissed from further consideration.

How does the Purpose and Need fit into the NEPA process?

While the Purpose and Need for a project should be established early in the process to fulfill the purposes described above, it should be revisited and updated over the course of the environmental process as more information about a project becomes available. For example, additional studies completed as part of the project development process may reveal new environmental issues or counter previous assumptions about commuting patterns, and the purpose and need should be updated to reflect this new information.

Sources

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FHWA Environmental Review Toolkit, NEPA and Project Development, NEPA Transportation Decisionmaking. https://www.environment.fhwa.dot.gov/nepa/trans_decisionmaking.aspx

FHWA Environmental Review Toolkit, NEPA Implementation, Memorandum: Guidance on "Purpose and Need." July 23, 2003. https://www.environment.fhwa.dot.gov/legislation/nepa/memo_purpose_need.aspx/

DEPARTMENT OF TRANSPORTATION

The NEPA Process: Logical Termini

What are logical termini?

As part of the NEPA process, project sponsors must decide what constitutes the geographic extent of a project. The limits of the project being evaluated are known as "logical termini," and are defined by the Federal Highway Administration (FHWA) as:

1. rational end points for a transportation improvement
2. rational end points for a review of the environmental impacts

Why are logical termini important?

FHWA requires that the project or action being evaluated in the NEPA process meet three principles in order to avoid commitments to transportation improvements before the impacts are fully evaluated:

1. Connect logical termini and be of sufficient length to address environmental matters on a broad scope;
2. Have independent utility or independent significance, i.e., be usable and be a reasonable expenditure even if no additional transportation improvements in the area are made; and
3. Not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.

Establishing logical termini ensures that project needs are addressed and reduces the risk of unexpected effects that could result from analyzing an insufficient geographic area. Additionally, they are intended to prevent segmentation, which occurs when a need may extend beyond the project area but needs and environmental impacts are artificially targeted to a limited area to avoid application of NEPA requirements to some of the project's segments.

How are the logical termini for a project determined?

Project sponsors use a number of different factors to determine logical termini. In addition to the ability of the project to meet an identified transportation need (safety, economic development, capacity, etc.), other factors considered could include socioeconomic factors, topography, future travel demand, other infrastructure improvements in the area, and more.

Logical termini can be locations where there are major traffic generators or changes in traffic volumes, major crossroads or system intersections, and/or locations where there are changes in settlement patterns, such as a transition from an urbanized area to a suburban or rural area.

Can logical termini change?

Logical termini and purpose and need interact with one another. As investigations into data, transportation problems, and impacts to resources continues, there can be rationale for modifying the logical termini based on new information obtained. This can also occur as alternatives are evaluated and further refined.

Source

FHWA Environmental Review Toolkit, NEPA Implementation, The Development of Logical Project Termini. November 5, 1993. https://www.environment.fhwa.dot.gov/legislation/nepa/guidance_project_termini.aspx

DEPARTMENT OF TRANSPORTATION

The NEPA Process: Evaluation Criteria

What are evaluation criteria?

The NEPA process requires the evaluation of multiple alternatives that could meet the project's Purpose and Need while identifying and considering potential social, economic, and environmental (SEE) impacts. The joint lead agencies (FHWA and MnDOT), through involvement with cooperating and participating agencies and the public, are responsible for determining the range of alternatives to be considered. In addition to various "build" alternatives, project sponsors must also evaluate a "no-build" or "no action" alternative. The "no-build" scenario evaluates outcomes if the proposed action were not taken, with allowances for routine maintenance or safety improvements.

The joint lead agencies are responsible for determining the methodology and level of detail for the evaluation of alternatives. Evaluation criteria are the measures used to compare the set of alternatives identified for consideration. The criteria are applied to the potential "build" alternatives as well as the "no-build" scenario, that functions as a baseline for comparison.

Why are evaluation criteria important?

All reasonable alternatives must be evaluated at a similar level of detail for the various documents in the environmental review process. In Minnesota, when MEPA (Minnesota Environmental Policy Act) is incorporated into the NEPA process for projects requiring an Environmental Impact Statement (EIS), the first evaluation of alternatives comes during the Scoping Decision Document. This document takes a high-level review of the alternatives with a consistent set of evaluation criteria. Because much information is still unknown at this point, the evaluation criteria are used to screen out alternatives that have fatal flaws such as unacceptable/unmitigable impacts to SEE resources and to identify a range of alternatives that will be evaluated in greater detail in the draft environmental impact statement. Cooperating and participating agencies, along with the general public, review and provide input on the evaluation criteria and the screening of alternatives. At the end of the Scoping process, a range of alternatives are moved forward.

Alternatives that make it into the Tier 1 Draft EIS stage are further reviewed. Once again, a consistent set of evaluation criteria are used to determine the merits of each alternative. The criteria utilized at this stage are more refined and can get at greater detail because additional studies have been completed within the logical termini in regards to better understanding SEE resources. The Tier 1 Final EIS must select a preferred alternative (for the Rethinking I-94 project this will include determining the mainline alternative as well as the access locations and a range of alternatives at those locations). The evaluation criteria form the basis from which this decision is made.

In addition to the criteria and measures used to eliminate alternatives and who was involved in selecting them, the EIS must also note the point in the process at which they were eliminated.

The purpose of evaluating alternatives is to assess which of them meet the purpose and need and provide benefits that can be justified despite significant cost and identified environmental impacts. In cases where no alternative completely meets the purpose and need, clear evaluation criteria can help establish critical, desirable, and supporting elements of the purpose and need to determine whether an action should be pursued despite financial and environmental costs.

How are evaluation criteria used?

When evaluating alternatives, whether it be in the Scoping or Tiered EIS stage, the evaluation criteria are first used to determine whether a range of alternatives address the project's Purpose and Need. Alternatives that are determined to address the Purpose and Need would be considered for further evaluation. Those that do not address the Purpose and Need would be rejected as not being reasonable.

Once alternatives that address the Purpose and Need are identified, they are further evaluated to determine their impacts on social, economic, and environmental (SEE) resources within the project area. Alternatives that have unmitigable impacts are rejected. Those that have the potential for significant impacts may be rejected or revised to reduce potential impacts.

Alternatives that address the Purpose and Need and have fewer impacts to SEE resources are likely to move forward. During the Tier 1 EIS, the evaluation criteria will be further detailed and refined. The range of reasonable alternatives will be further evaluated in the Tier 1 EIS in regards to Purpose and Need, impacts to SEE resources and to determine if there is an alternative that better addresses additional project goals. At this stage, the alternative that addresses the Purpose and Need, generally has fewer impacts to SEE resources, and address project goals is likely to be identified as the preferred alternative.

What are some examples of evaluation criteria?

Evaluation criteria are project-specific, but could include:

- VMT reduction
- Improved throughput
- Reduced crashes, injuries, and fatalities
- Social, economic, and environmental impacts:
    - Land use
    - Farmland
    - Social/relocation
    - Air quality
    - Noise
    - Water quality
    - Wetlands
    - Floodplains
    - Parks and schools (4f)
    - Threatened or endangered species
    - Historic and archaeological preservation
    - Hazardous waste
    - Visual
    - Energy use

Sources

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